

# Letter 11

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December 9, 2003

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## Subj: Opposition to the siting of the Wanapa Energy Center

My observation is that neither American's elected or appointed officials adhere to or support the statements in the documents upon which our Country was conceived and founded. It appears that Benjamin Franklin was correct when he speculated during his final speech at the Constitutional Convention that; *"there is no Form of Government but what may be a Blessing to the People if well administered; and I believe farther that this is likely to be well administered for a Course of Years, and can only end in Despotism as other Forms have done before it, when the People shall become so corrupted as to need Despotic Government, being incapable of any other."* I have numerous examples of what Benjamin Franklin so thoughtfully predicted as governmental corruption in the siting process of the Wanapa Energy Center.

I was required as a Umatilla County taxpayer by the BPA to purchase the Conforth Ranch. The BPA then through the slide of hand transferred the property to The Trust for Public Land, a nonprofit California public benefit corporation. That organization's "public benefit" definition is certainly much narrower than mine is. How, I do not know, The Trust for Public Land then conveyed this real property to the Confederated Tribes of the Umatilla Indian Reservation. On that date, 28 June 1993, the former Conforth Ranch was no longer a part of Oregon or Umatilla County, but property of another Nation. Land I was required to be a party in purchasing without any local taxpayer input which was then bestowed devoid of cost or restriction to another Nation. This particular process is not corrupt as elected or appointed officials I am sure define corruption. To take the corrupt practices a step further there are four covenants attached to the Conforth Ranch deed. The first of these covenants discusses future industrial development on that portion of the property previously zoned by Oregon and Umatilla County for industrial development. The covenant clearly states that, *"the operation of such industries does not violate local, state or federal statutes, rules or ordinances."* Governor Kitzhaber's Indian Affairs director informed me that the State would not participate in the Wanapa Energy Center siting processes because the land was not part of Oregon. I am not aware of any Umatilla County position, but I can only assume the public position is the same as Oregon's government. If such covenants existed on lands owned by any other Umatilla County citizen there would be no doubt how such covenants would be upheld and administered. Not only does the selective adherence to the covenants further document the governmental corruption of the siting process, but also illustrates how our once great nation no longer treats every citizen equally. Such selectivity group practices violate The Declaration of Independence's statement of *"We hold these truths to self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."* My family and I are downwind of the proposed facility. Our crops and our personal health have no protection from the air pollution poisons to be emitted because neither Umatilla County nor the

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11-1 This account of the Conforth Ranch property transfer stated in this comment letter is inaccurate. The Trust for Public Land (TPL) purchased the property known as "Conforth Ranch" from a private party. Later, in June 1993, BPA purchased from TPL the portion of the Ranch now known as "Wanaket" for wildlife conservation pursuant to the Pacific Northwest Power Planning and Conservation Act (16 U.S.C. 839). BPA's source of funding for the purchase of Wanaket was the Bonneville Fund (i.e., from the sale of BPA power and transmission services); no BPA expenses, including fish and wildlife mitigation, are recovered from taxes. BPA currently still owns the Wanaket property and has a contract with the CTUIR to manage the land for wildlife conservation. However, BPA is considering transferring the Wanaket property to the BIA, to be held in trust into perpetuity for continued wildlife conservation management. BPA has never owned the land proposed as the site of Wanapa.

The monitoring, recording, and reporting of emissions from the Wanapa project would be in accordance with the permit requirements and this would be the same for all projects regardless of there location.

See response to Comment 10-4 regarding water use.

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State of Oregon will be at the siting table to protect our crops or our health with local or state statutes, rules or ordinances. Our individual rights to Life, Liberty and pursuit of Happiness have been obfuscated without due regard for those individual rights by any State or local governmental body.

I have another example of how American individual rights are being explicitly taken. This example comes for the latest Oregon DEQ's, 1999, Oregon Air Quality Data Summaries Appendix 1L. One of the notes attached to the table is that no annual air emissions from permitted sources on tribal lands will be recorded. Even though those Tribal permitted emissions will negatively affect the Umatilla County airshed there will be no accounting of those sources by the ODEQ and I assume the EPA. However, if you are a farmer within those Tribal boundaries your non-road diesel vehicle and all agricultural field burning will be documented, regulated, and if possible banned by ODEQ and/or EPA. This is yet another example of the selectivity application of laws, regulations, and ordinances for the benefit of a special group of individuals at a significant cost to the majority of American citizens.

I will not address my issues with the airshed impact within this document. I will submit my comments at the time the EPA permit process unfolds.

The proposed water purchase by the Wanapa Energy Center from the Port of Umatilla's Columbia River water rights is appalling considering that the Umatilla County citizens in the critical groundwater areas paid for that water right and the subsequent Regional Water System. I am stunned that those same individuals who so strongly opposed Umatilla County's attempt to deal directly with the future use of ground water in the Umatilla County critical groundwater areas are not pounding down the Port's doors in opposition to the sale of their water to another Nation. It is even more nauseating considering that the Nation purchasing the water for use other than salmon opposes any use of the Columbia River water for anything but salmon. Such a position makes the Port's action even viler. It is as if the Columbia River has no propose to benefit any run of the mill Americans. This is yet another example the corrupt use of government to benefit a select group of individuals at an exorbitant cost to the majority of Umatilla County taxpayers.

The draft ESI conveniently left out many unstated costs to the Umatilla County citizenship. One of the most significant is the loss of property taxes that would have been paid if the project was a normal American industrial development. In addition there is the lost Oregon CO2 offset fees that will not be paid. This is one of the examples of a covenant Oregon administrative rule that applies to all other private carbon based power production facilities constructed since 2000 except by some selective application of law for the Wanapa Energy Center.

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11-2 All developments on tribal land pay taxes. Only CTUIR has taxation authority over the project site. As a result, the project pays property taxes to the CTUIR. However, the County has jurisdiction over the ancillary facilities (e.g., the natural gas and water/sewer pipelines) which would pay property taxes to the County. In addition, new employees of the project would likely buy homes and pay property taxes to the County. Therefore, Umatilla County would not lose property taxes; instead it would gain property taxes which it would not have had if it would not be for the project.

While the project is not under state jurisdiction but for purposes of carbon dioxide mitigation, the project would pay offset fees that exceed state requirements for carbon dioxide mitigation. One possible mitigation technique under the state requirements would be to contract with the Oregon Climate Trust, the entity currently used by other power plants in Oregon, and to pay them fees for the carbon dioxide, which the Trust would then invest in various mitigation efforts. As discussed earlier, the project would fund the Wanapa Environmental Foundation with \$8 million. The goals of the Foundation include focusing on mitigation that are based locally to mitigate for the direct impacts in the region and to help with the local economy. The state CO<sub>2</sub> offset fees paid to the Oregon Climate Trust may be spent outside of Oregon.

The project cannot remain viable if it would be subject to double taxation by the Tribes and by the County.

## Letter 11 Continued

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### **What Wanapa Will Not Pay in CO2 Offset Monetary Funds**

- Will not pay \$ 9,576,585.20 in CO2 offset funds for CO2 emissions into the County & State airshed.
- (Est. 11,266,570.83 Tons of CO2 emissions over 30 years. 375,552.36 Tons per year.)
- Will not pay \$ 477,905.37 in selection and contracting funds for administrative fees.

11-2

Appendix 2 is a MS PowerPoint presentation on the Wanapa Energy Center tax issues with additional details about the Oregon CO2 Offset tax. The lost Umatilla County property taxes are:

### **Annual Levied Property Tax Wanapa Will Not Pay**

General County	\$ 2,192,267
Umatilla Co. Bond	\$ 214,907
Educ Serv Dist	\$ 433,741
BMCC Ed Dist	\$ 509,047
Port of Umatilla	\$ 118,503
School Dist #8	\$ 3,763,529
School Dist #8 Bond	\$ 2,782,010
Fire Dist #7-405	\$ 655,347
Fire Dist #7-405 Bond	\$ 303,380
Cemetery Dist #8	\$ 71,071
Umatilla Hosp Dist #1	\$ 371,140
WU Vector Control	\$ 155,617
Umatilla Sp Lib Dis	\$ 283,514
BMCC Bond	\$ 268,345
<b>Total Tax Forfeited Annually</b>	<b>\$12,122,418</b>

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11-2 It appears that the Wanapa Energy Center socioeconomic study opportunely avoided this significant Umatilla County community cost. What a great business technique to avoid all local, County, and State ordinances, laws, administrative rules, and regulations, as well as taxes. Buy a piece of property then donate that property to a "public benefit" organization which in turn transfers the deed to another Nation thus escaping all community responsibilities related to ordinances, laws, administrative rules, regulations, and taxes. Similar to Enron, isn't it? Once again, the everyday Umatilla County citizen is required to assume the unstated community costs of industrial development and in this particular case all the cost of a significant industrial development in another Nation.

11-3 In the past year, the Umatilla County Commissioners rejected a land use application proposal by Lewis-Clark College for a rural residential home development on a tract of Umatilla County non-resource lands East of Hat Rock. The Commissioners rejected the proposal because of testimony from adjacent farmers that such a development would dramatically impinge upon their normal farming practices. I wonder if those same farmers understand the even more harsh impact the Wanapa Energy Center will not only have upon their crop and animal production, but also their families as well as their health. However, as it has been proven typical of all the permit applications for carbon-based thermo power plants in the region, none of them ever addresses the quantitative impact of the air pollution upon crops, animals, or human health. The applicants' clearly state that their projects do not exceed the NAAQS. Such claims are adequate for the applicant, ODEQ, and EPA. The other direct impact is upon the agricultural production in Umatilla County. Building the Wanapa Energy Center and similar natural gas fueled carbon-based thermo power plants is resulting in the unprecedented escalating price of natural gas, an essential feedstock to manufacture nitrogen fertilizer. The crisis is exacting a heavy toll on America's nitrogen fertilizer producers and the farmer customers they supply. Oregon and Umatilla County appear to be placing a greater importance on electrical power production than the well-being of one of three natural resource industries that made Oregon the once great State it was. Instead, Umatilla County is an energy sump pump for Western Oregon and California. The new State, County, and local policy is too heck with the local agricultural producers and their input costs, crop and animal health, as well as their personal health.

11-4 As stated in Appendix 3 I do not understand why the City of Hermiston and Port of Umatilla did not collaborate with the Umatilla Generating Project if they are so bent upon participating in the development of an energy facility. As least, that project would have adhered to all State and Local regulations as well as paid local property taxes, State carbon taxes, and still purchased Port of Umatilla water, all to the direct benefit of Umatilla County citizens. The Port of Umatilla would not only have sold the project water, but also collected additional property taxes. My question to both elected bodies, why Wanapa and not Umatilla?

11-5 Of course I cherished the question Mr. Roger Hamilton, Governor Kitzhaber's Energy Advisor, asked Mr. Ken Beeson, Energy Resource Project Manager for Eugene Water and Electric Board at a Port of Umatilla Wanapa symposium; "*Why is the power plant not being built in Lane County next to the population base that will use the power?*" Mr. Ken Beeson would not answer the question. I believe the answer is that the Lane County citizens do **NOT** want such facilities and the negative impact that power production development bring to a community. Once again, the East side and particularly Morrow and Umatilla Counties are the cut plain for power production and transmission for Western Oregon. Roger Hamilton stated that the State Energy Policy should promote renewable energy sources for electrical production as well as production and distribution closer to the population where the load requirement exists. I can see that such a proposal has been completely ignored and died with Mr. Hamilton's replacement.

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11-3 A dispersion modeling analysis has been conducted for Wanapa to estimate the quantitative air quality impacts from the proposed facility and other nearby sources and background concentration. Ambient concentrations from the modeling analysis were demonstrated to remain within the appropriate National Ambient Air Quality Standards (NAAQS). The primary NAAQS are required to be set by the USEPA at levels protective of human health. The secondary NAAQS are set at levels protective of public welfare, which includes impacts on soils, vegetation, and animals. The impacts from Wanapa itself (excluding impacts from other nearby sources and background concentrations) in the significance analysis were shown to be less than 20 percent of the appropriate NAAQS at the point of greatest impact.

See response to Comment 6-1 regarding the issue of pricing of natural gas.

11-4 The Umatilla Generating Project (UGP), through an affiliated company, owns an allocation of water from the regional water supply system, and may wish to develop an energy facility when in its judgment market and/or other conditions are appropriate. UGP has not elected to do so at this time. The Wanapa Project is the most feasible, present opportunity that is before the Port.

The Port of Umatilla provides water to Hermiston Generating Company as an initial water user of the regional water system. The Port also provides water to Calpine as a subsequent water user through the same system. The Port is prepared to serve Umatilla Generating Company if they decide to build their proposed facility and has entered into a water supply agreement with the legal entity that hold the interests of Umatilla Generating Company. The Port would consider providing water to any other prospective independent power producers that might choose to locate within the port district at a place where the producer could be reasonably served. The Port of Umatilla and the CTUIR have an agreement that the land upon which Wanapa is to be constructed would be used for industrial purposes. This agreement is a result of negotiations over the disposition of the Conforth Ranch. The Port was approached by the Wanapa partnership as a subsequent water user of the regional water system.

11-5 The purpose of the Wanapa project is to provide electric generation for use in the region and in the local area in northeast Oregon. The primary purpose of the project is not to provide power for people in Lane County. The Eugene Water & Electric Board (EWEB) is considering purchasing 25 MW from the project, an amount that is approximately 2 percent of the total project capacity of 1,200 MW. The implication that power production is confined to the east is not accurate. Several thermal generation projects are currently proposed in western Oregon and Washington "closer to the population where the load requirement exists." There also are several wind projects proposed in Oregon and Washington.

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**W**hy is the Wanapa Energy Center not being built upon Tribal ground near Mission? There is a natural gas pipeline and their water present. In addition, that Nation's local population could then consume the power without demanding power line right-of-ways across Umatilla County citizens' property.

**H**ere is the only way I would support the present Wanapa Energy Center facility. No air emission shall escape the property boundaries. The source of cooling water shall come from nowhere outside the present property boundaries. All wastewater shall stay on the property, both from the facility and human activity to manage the plant. There shall not be a requirement for a natural gas pipeline right-of-way across any Umatilla County citizen property, public or private. There shall not be a requirement for a power line right away across any Umatilla County citizen property, public or private. In essence, there shall be a wall around the facility that prevents **ZERO** impact in anyway upon Umatilla County citizens. That also includes there shall be **NO** use of any public Umatilla County funds or bonding practices to construct the Wanapa Energy Center.

### **Appendix:**

1. Wanapa Energy Center Project Public Input by Ken Thompson
2. Energy Generation Facility Taxes by Ken Thompson
3. Port of Umatilla Letter by Ken Thompson

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**Wanapa Energy Center Project  
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PREPARED BY KEN THOMPSON

11/18/03

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## INTRODUCTION

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I am taking this opportunity to submit public comments on the Wanapa Energy Center Project near Hermiston, Oregon. I just returned home from the open house held at Tamastslitk and knew that I needed to make written input in order to have my concerns addressed by the permitting process.

I would like to first give a short resume of information about myself. I have served on the Umatilla County Planning Commission since 1994. During that time the Commission has sited two energy projects, the Co-Gen at Simplot and the Vansycle Wind Project. This past summer I requested contested party status during the Oregon Energy Facility Siting Council's permit process for the Stateline Wind Project. Florida Light and Power came to a number of agreements with me so I would drop my contested party status request in order for the project to proceed without further hearings and associated delays. Over the years of watching the development of the commercial merchandizing energy industry within our County during which time I have learned and developed a very deep concern about the siting of the various energy production facilities. Those concerns came

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to a head with the Stateline Wind Project and are experiencing a rebirth with the Wanapa Energy Center Project proposal.

## ISSUES OF CONCERN

### COUNTY PROPERTY TAXES

11-6

I am aware there will be some debate about whether this particular property should be exempt from Umatilla County property taxes. The property was purchased at a substantial time after the Umatilla Reservation became Indian Deeded Ground. The property was on the county tax roles at one time and is miles from the present Umatilla Reservation. There is no other development on the property at this time. I would contest that a \$700-\$800 million dollar energy production facility not paying county property taxes is not only unfair, but also unethical. To say that the facility will not have any impact upon our county infrastructures is ridiculous and down right unconscionable.

What amazes me is that the county Planning Commission did the tribe a great favor at a meeting about a year ago by zoning the previous unzoned property heavy industrial. There were no general public members or tribal members present at the time. So thanks to the foresight of the County Planning Commission there are no County Zone permits required for siting the energy facility because such a use is recognized as an outright permitted use.

### SOCIOECONOMIC STUDY GUIDELINES

11-7

One of the issues that whacked me in the side of the head during the Stateline and Vansycle Wind Projects is the incompleteness of the socioeconomic studies compared to the environmental studies required and completed to site energy projects. The following is from my public testimony regarding the Stateline Wind Project siting concerning socioeconomic studies and their incompleteness.

*Amazing, FPL Energy is proud of their conclusion that there was "no impact" or "insignificant impact" upon the County's employment, population, and transportation system as a result from the establishment of the Stateline Wind Project. Most industrial development projects within Umatilla County tout their potential socioeconomic impacts, not gloat over "no or insignificant impacts". The sections of the FPL application that concern the socioeconomic of our community appear to have been produced without any interaction with any citizens within a 30-mile radius of the project. The application also lacks sensible statistics to support the report's conclusions concerning socioeconomic impacts. Why are applications for major community projects required to invest more money and time in studying plants, fish, birds, and animals vice the needs of the citizens residing within the community? Here are some of the examples to support my position concerning the lack of proper socioeconomic study or review:*

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11-6

The project is being proposed for construction on tribal trust land that is technically considered part of the Umatilla Indian Reservation, although it is not contiguous with the current formal Reservation boundary. The land also is within the tribes 6.4 million acre ceded territory.

As discussed in Section 2.5.2, locating the proposed project on lands within the Reservation boundary was considered but eliminated due to the lack of conjunction of water, gas, and electric transmission necessary for constructing and operating an economically viable facility.

See response to Comment 11-2 on comments related to tax payments.

11-7

See responses to Comments 11-2 and 6-6. The project would pay taxes to CTUIR, the entity with taxing authority, as described in response to Comment 11-2.

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*(1) Not one County socioeconomic document of study is quoted for review. However, the proposed draft order lists 3 Botanical documents reviewed and 12 wild-life documents reviewed.*

*(2) In the list of 94 Conditions Required by Council Rules there are only two socioeconomic conditions and they concern county roads. However, there are 19 conditions concerning plants and wildlife as well as two separate attachments: Oregon Wildlife Monitoring Plan and Revegetation Plan.*

11-7

*These dichotomies of people issues versus plants and wildlife are excellent examples of the success of the environmental activists' influence and the community citizens' loss of local control for the beneficial concerns of their own community. The dichotomy of the impact studies also supports my belief that our community is being mined for a profitable resource without significant contributions to support the well being of our community's intrinsic values and vitality that impact citizens. One or two ground squirrel sites, whether inhabited or not, will have more impact upon this body's decision than one hundred citizens like me objecting to the Stateline Wind Project or even one citizen's voice of dissent. Those who can speak will have less influence upon Oregon Energy Facility Siting Council's decision than those Oregon Fish and Wildlife Department impact studies that ODE requires.*

## NUMBER OF FULL-TIME EMPLOYEES VERSUS FACILITIES VALUE

From the minute amount of information available pertaining to Wanapa Energy Center I have concluded that the facility is another extremely high valued industry that adds little to our County's employee population base, which adds insignificant value to our community of citizens. A \$700-\$800 million dollar facility with only 30 full-time employees is not impressive in population starved Eastern Oregon. I would also bet that at least 1/2 of those employees would live choose to live in the Tri-Cities.

Again I would like to share some of the information I used in my public testimony at the Stateline Wind Project public hearing. There is a brief discussion about what I consider a "exceptional" community business.

11-8

*A viable community thrives and grows with a web of interconnecting businesses. An excellent example is Pendleton's Lippert Components Mfg. Inc. The company produces RV chassis's. Those chassis's are sold to Pendleton's Fleetwood Travel Trailers of Oregon and Keystone RV Co. Because of the co-location of the three manufacturing facilities, both Fleetwood and Keystone have a significant advantage in the highly competitive RV market. Also in Umatilla County there are a number of food processors as well as two flourmills and woolen mill that all add value to the agriculture products produced within the County and region. What will FPL Energy do with the product it extracts? Export the electricity to PGE in Portland, Oregon. West side companies mining East side resources without adding value to our communities, as do those exceptional community partners listed in Table 2. I am sure other*

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11-8

The purpose of an EIS is to analyze and disclose impacts of a proposed project on the human and natural environment. This document presents that information, as required by BIA regulations. The EFSC process is somewhat different in its requirements and the areas of interest to the Oregon Energy Facility Siting Council will be addressed at the time the project proceeds with that process.